

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 08-99000-smb

4 Adv. Case No. 08-01789-smb

5 - - - - - x

6 In the Matter of:

7 BERNARD L. MADOFF INVESTMENT SECURITIES LLC,

8

9 Debtor.

10 - - - - - x

11 SECURITIES INVESTOR PROTECTION CORPORATION,

12 Plaintiff,

13 v.

14 BERNARD L. MADOFF INVESTMENT SECURITIES, et al.,

15 Defendants.

16 - - - - - x

17 U.S. Bankruptcy Court

18 One Bowling Green

19 New York, NY 10004

20 June 15, 2016

21 10:10 AM

22

23 B E F O R E :

24 HON STUART M. BERNSTEIN

25 U.S. BANKRUPTCY JUDGE

1     Hearing re:   Status Conference Regarding Certain Outstanding  
2     Subpoenas.

3  
4     Hearing re:   Motion for an Order Approving Seventh  
5     Allocation of Property to the Fund of Customer Property and  
6     Authorizing Seventh Interim Distribution to Customers.

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25     Transcribed by:   Sonya Ledanski Hyde

1 A P P E A R A N C E S :

2

3 SECURITIES INVESTOR PROTECTION CORPORATION

4 1667 K Street, N.W., Suite 1000

5 Washington, D.C. 20006

6

7 BY: KEVIN H. BELL

8

9 BAKER HOSTETLER

10 Attorney for the Debtor

11 45 Rockefeller Plaza

12 New York, NY 10111

13

14 BY: EDWARD J. JACOBS

15 DAVID J. SHEEHAN

16

17

18

19

20

21

22

23

24

25

1 P R O C E E D I N G S

2 THE CLERK: Please be seated.

3 THE COURT: Good morning. Madoff?

4 MR. JACOBS: Good morning, Your Honor.

5 THE COURT: Good morning.

6 MR. JACOBS: Edward Jacobs for the Trustee. This  
7 is, I believe, the first matter is the continuation of the  
8 bank subpoena motion to quash filed by Ms. Chaitman in five  
9 cases.

10 We -- those cases are Pickard v. Roth, and then  
11 there are four additional cases which we refer to as the  
12 Shapiro cases. The issue for the continuation was the fact  
13 that in all five cases, while Ms. Chaitman filed the motion  
14 to quash the bank subpoenas we served, she did not represent  
15 the defendant for whom the bank subpoenas were directed.

16 So I'd like to provide just a very quick update,  
17 and ask the Court for a continuation of these hearings until  
18 the August 24th omnibus date, or whichever date is more  
19 convenient for the Court.

20 In the Roth case, we've been able -- I'm pleased  
21 to report we've been able to work directly with the  
22 defendant to determine a hardship situation. We are --  
23 expect to be imminently filing a dismissal of that action.  
24 We are just waiting on the defendant to authorize our  
25 filing.

1 In the Shapiro cases, the estate has hired new  
2 counsel, but they have not yet entered a notice of  
3 appearance in those cases. The reason for that is because  
4 the estate doesn't currently have a legal representative,  
5 but we are working with new counsel to open a probate and  
6 hopefully appoint a new representative so that we can  
7 officially enter those notices of appearances, and then  
8 dispel with the need for the pending motion.

9 THE COURT: Dispel or dispense?

10 MR. JACOBS: Dispel. We hope -- and we also hope  
11 to engage in a fruitful settlement discussion in all four of  
12 those cases that would also obviate the need for the Court  
13 to consider the pending motion. So to facilitate that, we  
14 would ask the Court for a continuation to August 24th.

15 THE COURT: August 24th?

16 MR. JACOBS: I believe that that is the omnibus  
17 date for August.

18 THE COURT: All right.

19 MR. JACOBS: Anything else, Your Honor?

20 THE COURT: No, not on that one.

21 MR. JACOBS: Okay.

22 THE COURT: But -- well, does anyone want to be  
23 heard on the discovery matter? The record should reflect  
24 there's no response.

25 MR. JACOBS: Great. Thank you.

1 MR. SHEEHAN: Good morning, Your Honor.

2 THE COURT: Good morning.

3 MR. SHEEHAN: David Sheehan on behalf of the  
4 Trustee.

5 Your Honor, today is the return date of the  
6 seventh interim allocation by the Trustee with regard to the  
7 customer fund. Today's application seeks the distribution  
8 of \$171 million as the seventh distribution.

9 As a result of that we will be paying those  
10 amounts to 972 claims. The average amount paid to each of  
11 those claimants will be over \$175,000. And as a result of  
12 this distribution, approximately -- well, not approximately,  
13 exactly 1,289 accounts, relating to 1,480 claims, will be  
14 fully satisfied and all those accounts have an equity up to  
15 \$1.19 million.

16 So what this represents, Your Honor, is another,  
17 you know, hallmark in the advancement of this case. Our  
18 concern isn't with the 58 percent who've been fully  
19 satisfied, our concern is with the 42 that are left; and  
20 that's what we work on every day.

21 I don't think there's any objection to this  
22 allocation, Your Honor. And if Your Honor has any  
23 questions, I'd be glad to answer them.

24 THE COURT: So what percentage of distribution  
25 have you made on the claims? I realize some people have

1       been completely satisfied.

2               MR. JACOBS: It's approximately 58.23 percent,  
3       about. I did -- there's -- now that you've asked, I'll tell  
4       you that we've got another \$24 million that's come in at the  
5       end of May and the order that we submit to Your Honor gives  
6       us the ability to add that, so it'll go up a nick or two.  
7       But we're continuing to -- I think we'll surpass 60 percent  
8       by the end of the year. We will have a second distribution;  
9       we have several settlements that are in the wings that will  
10      be coming before Your Honor shortly, within the next four to  
11      six weeks, which will add another several hundred million  
12      dollars for the distribution purposes.

13             And as Your Honor probably knows, we are -- we do  
14      have over \$11.2 billion, we've distributed only 8.5 of it,  
15      because there's reserves. Reserves for all what we call  
16      deemed determined, cases like Merkin and others where the  
17      off chance, we think, that we might lose, we obviously have  
18      to have the ability to --

19             THE COURT: Mm hmm.

20             MR. JACOBS: -- pay those claims. So every time  
21      we do an allocation, we reserve out those amounts. So we  
22      have over 60 percent to distribute already, but we can't do  
23      that as yet until we resolve the litigations.

24             THE COURT: How many claims are there in this  
25      case, or unresolved claims at this point?

1 MR. JACOBS: There's approximately 900, Your  
2 Honor.

3 THE COURT: And are those all the subject of  
4 litigation or are there claims which are disputed, but  
5 aren't the subject of litigation?

6 MR. JACOBS: They're both.

7 THE COURT: All right. Does anyone want to be  
8 heard in connection with the motion to approve the seventh  
9 distribution? Yes, sir.

10 MR. BELL: Yes. Kevin Bell on behalf of the  
11 Securities Investor Protection Corporation, Your Honor.

12 I think this is a landmark day, 2,744 in this  
13 case. We are, with the SIPC advance of \$836 million --  
14 taking Mr. Sheehan's 58 percent with the SIPC advance,  
15 customers have received, with allowed claims, have received  
16 63 percent of their amount. And as Your Honor knows,  
17 there's a subrogation factor, as customers get fully paid,  
18 SIPC gets back some of the monies its advanced to put back  
19 into the public trust fund we administer.

20 So clearly we're here, I agree with Mr. Sheehan,  
21 the rest of the path on this case is the other 42 percent.  
22 And moving to get that money back from people that have  
23 other people's money, et cetera, will be -- you know, I'll -  
24 - we'll add to the 2,744 days as we move forward.

25 But SIPC asks the Court enter the order and



1 supports, strongly, the motion by the Trustee.

2 THE COURT: Well, I'll certainly approve the  
3 application. I'm hard pressed to deny it, I would think.

4 So you can submit an order. And we look forward  
5 to the next distribution.

6 MR. JACOBS: Thank you, Your Honor.

7 THE COURT: Thank you.

8 MR. JACOBS: See you soon.

9 THE COURT: All right. We're in recess now until  
10 11 o'clock when I'll do the Gawker matters.

11 (Whereupon these proceedings were concluded at  
12 10:10 AM)

13

14

15

16

17

18

19

20

21

22

23

24

25

I N D E X

RULINGS

|                      | Page | Line |
|----------------------|------|------|
| Application Approved | 9    | 2    |

C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing  
transcript is a true and accurate record of the proceedings.

Sonya Ledanski  
Hyde

Digitally signed by Sonya Ledanski Hyde  
DN: cn=Sonya Ledanski Hyde, o=Veritext,  
ou, email=digital@veritext.com, c=US  
Date: 2016.06.16 13:54:35 -04'00'

Sonya Ledanski Hyde

Veritext Legal Solutions

330 Old Country Road

Suite 300

Mineola, NY 11501

Date: June 16, 2016